

REMARKS

Claims 6-20 are canceled. Applicants hereby reserve the right to pursue the subject matter of the canceled claims in one or more continuation or divisional patent applications.

The Examiner has indicated claims 1-5 are allowable.

Claim Rejections Under 35 U.S.C. § 112

Claims 6-14 are rejected under 35 U.S.C. § 112, second paragraph as being incomplete for omitting essential steps of detecting a PCR product.

Applicants respectfully traverse. However to compact and expedite prosecution, Applicants have canceled claim 6-14. The cancellation of subject matter is not to be construed as a surrender of any subject matter. Applicants hereby reserve the right to pursue any canceled or amended subject matter in one or more continuation or divisional applications.

In view thereof, Applicants respectfully request reconsideration and withdrawal of the instant rejection.

Claim Rejections Under 35 U.S.C. §§ 102 and 103.

Claims 6, 7, 8, 9, and 11 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Englund *et al.*, *Diagn. Microbiol. Infect. Dis.* Vol. 33 p. 163-171, 1999.

Applicants respectfully traverse. However to compact and expedite prosecution, Applicants have canceled claim 6-14, thus the Examiner's rejection of the instantly rejected claims is now moot. The cancellation of subject matter is not to be construed as a surrender of any subject matter. Applicants hereby reserve the right to pursue any canceled or amended subject matter in one or more continuation or divisional applications.

In view thereof, Applicants respectfully request reconsideration and withdrawal of the instant rejection.

Claims 1, 3, 6, 7, 8, 9, 12 and 13 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Erume *et al.*, *African Health Science* vol. 1 pg. 83-89, 2001.

Applicants respectfully traverse. However to compact and expedite prosecution, Applicants have canceled claim 6-14, thus the Examiner's rejection of the instantly rejected claims is now moot. The cancellation of subject matter is not to be construed as a surrender of any subject matter. Applicants hereby reserve the right to pursue any canceled or amended subject matter in one or more continuation or divisional applications.

In view thereof, Applicants respectfully request reconsideration and withdrawal of the instant rejection.

Claims 6, 7, 8, 9, 11, 12, and 13 are rejected under 35 U.S.C. § 102(a) as being clearly anticipated by Herrewegh *et al.* EP 1223225A1 published July 17, 2002.

Applicants respectfully traverse. However to compact and expedite prosecution, Applicants have canceled claim 6-14, thus the Examiner's rejection of the instantly rejected claims is now moot. The cancellation of subject matter is not to be construed as a surrender of any subject matter. Applicants hereby reserve the right to pursue any canceled or amended subject matter in one or more continuation or divisional applications.

In view thereof, Applicants respectfully request reconsideration and withdrawal of the instant rejection.

Claims 6, 7, 8, 9, 10, 11, and 13 are rejected under 35 U.S.C. § 102(a) as being clearly anticipated by Corti *et al.* BMC Microbiology 2002, 2:15.

Applicants respectfully traverse. However to compact and expedite prosecution, Applicants have canceled claim 6-14, thus the Examiner's rejection of the instantly rejected claims is now moot. The cancellation of subject matter is not to be construed as a surrender of any subject matter. Applicants hereby reserve the right to pursue any canceled or amended subject matter in one or more continuation or divisional applications.

In view thereof, Applicants respectfully request reconsideration and withdrawal of the instant rejection.

***New Rejections Based on Amendment
Claim Rejections- 35 U.S.C. § 112***

Claims 7, 9 and 14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Applicants respectfully traverse. However to compact and expedite prosecution, Applicants have canceled claim 6-14, thus the Examiner's rejection of the instantly rejected claims is now moot. The cancellation of subject matter is not to be construed as a surrender of any subject matter. Applicants hereby reserve the right to pursue any canceled or amended subject matter in one or more continuation or divisional applications.

In view thereof, Applicants respectfully request reconsideration and withdrawal of the instant rejection.

Claims 7, 9 and 14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Applicants respectfully traverse. However to compact and expedite prosecution, Applicants have canceled claim 6-14, thus the Examiner's rejection of the instantly rejected claims is now moot. The cancellation of subject matter is not to be construed as a surrender of any subject matter. Applicants hereby reserve the right to pursue any canceled or amended subject matter in one or more continuation or divisional applications.

In view thereof, Applicants respectfully request reconsideration and withdrawal of the instant rejection.

CONCLUSION

Applicants respectfully request entry of the foregoing remarks and reconsideration and withdrawal of all rejections. It is respectfully submitted that this application with claims 1-5 define patentable subject matter and is in condition for allowance. Accordingly, Applicant respectfully requests allowance of these claims.

Applicants have made every effort to present claims which distinguish over the cited art, and it is believed that all claims are now in condition for allowance. However, Applicants request that the Examiner call the undersigned (direct line 561-671-3666) if anything further is required by the Examiner prior to issuance of a Notice of Allowance for all claims.

Although, Applicants believe that no further extensions of time are required with submission of this paper, Applicants request that this submission also be considered as a petition for any further extensions of time if necessary. The Commissioner for Patents and Trademarks is hereby authorized to charge the amount due for any retroactive extensions of time and any

In re Application of: BUERGELT, C. D.
Confirmation No: 3776
Application No.: 10/802,197
Examiner: OGUNBIYI, O. A.
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deficiency in any fees due with the filing of this paper or credit any overpayment in any fees paid on the filing or during prosecution of this application to Deposit Account No. 50-0951.

Respectfully submitted,
AKERMAN SENTERFITT



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